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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CTIA

October 6, 1994

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

Cellular
Telecommunications
Industry Association
1250 Connecticut
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Suite 200
Washington, D.C. 20036
202-785-0081 Telephone
202-785-0721 Fax

RE: Ex Parte Filing

GEN Docket No. 90-314 (Personal Communications Services)
DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On Thursday, October 6, 1994, Mr. Randall S. Coleman, Vice President of Regulatory Policy and Law, Cellular Telecommunications Industry Association (CTIA), sent the attached letters to Mr. Jonathan Cohen, Senior Counsel, Office of Plans & Policy.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the attachments are being filed with your office.

If there are any questions in this regard, please contact the undersigned.

Sincerely,

Robert F. Roche

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY/OTIA

October 6, 1994

Mr. Greg Rosston
Office of Plans & Policy
Federal Communications Commission
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Washington, D.C. 20554

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RE: Ex Parte Filing - Docket No. 90-314
Personal Communications Service

Dear Greg:

In response to your request for further information and analysis of four Major Trading Areas (MTAs) and their component Basic Trading Areas (BTAs), I attach two matrices demonstrating the extent to which the current ten percent overlap threshold excludes small and mid-sized cellular companies from full participation in providing Personal Communications Services (PCS).

The four MTAs you selected -- Knoxville, Omaha, Philadelphia and San Francisco -- are composed of 34 BTAs with a total population of 25,692,300. These BTAs, in turn, overlap with 73 cellular service areas. The attached matrices demonstrate that raising the overlap threshold from ten to 20 percent would create seven new opportunities in BTAs for six small or mid-sized companies, including: Bachtel Cellular, Cellular 2000, General Cellular, Pinellas, Sierra Cellular, and the Tennessee RSA 3 L.P.

Raising the threshold to 25 percent would create a further nine opportunities for small or mid-sized cellular companies (for a total of 16 opportunities foreclosed by the current ten percent overlap rule), including: AmeriCell, Cal-One Cellular, General Cellular, Liberty Cellular, Mountaineer Cellular, Miscellco, Nebraska Cellular and Tennessee RSA 3 L.P.

Raising the threshold to 30 percent would create a further three opportunities for small or mid-sized cellular companies (for a total of 19 opportunities foreclosed by the current ten percent overlap rule), including: General Cellular, Independent Cellular Network, and Nebraska Cellular.



Raising the threshold for full cellular eligibility in PCS licensing would not diminish competition in the wireless marketplace -- either pre- or post-auction. In these 34 BTAs, with their four BTA-based licenses and two MTA-based licenses, a total of 204 licenses will be auctioned. Modification of the threshold will create, at most, nineteen additional opportunities for small and mid-sized cellular companies to bid for more than 10 MHz of PCS spectrum.


Beyond the issue of the appropriate overlap threshold governing cellular eligibility, the Commission has created an entirely unnecessary and prejudicially narrow divestiture window (permitting only cellular companies with overlap interests between ten and 20 percent to divest their cellular and thereby be eligible to bid for more than 10 MHz of PCS spectrum). CTIA submits that this further barrier to cellular participation in PCS is entirely unnecessary, and predicated on little more than tenuous guesswork as to when ownership interests may impede competition.

Indeed, there is a simple solution to the Commission's attempts to identify a precise balance point at which ownership interests may or may not be perceived to impede competition in the marketplace. Like Alexander and the Gordian knot, the Commission may cut through the tangle of contradictory argument and problematic evidence with a simple blow. The Reply of Ameritech to the Comments on the Petitions for Further Reconsideration in GEN Docket No. 90-314, filed September 14, 1994, provides a simple and fair mechanism which will permit cellular companies to participate in PCS without harm to the auction process, to wireless competition, or to the public.

The proposal that pre-auction divestiture to an interim independent trustee will permit greater participation in the PCS auctions, and ensure that such bidding does not produce a post-divestiture environment in which less competition exists in the wireless marketplace.

If you have any questions about the foregoing, please do not hesitate to contact the undersigned.

Sincerely,


Robert F. Roche
Director for Research

Attachments

Additional BTA Service Profiles

BTA Name	Total Pops	Celcos in Market	Celco Pops	% Overlap
Kingsport, TN	663,300	GTE/Contel Sprint BAM Bachtel SWB Mobile	447,800 663,300 112,300 57,200 32,100	67.5 % 100 % 16.9 % 8.6 % 4.8 %
Knoxville, TN	995,800	Bachtel Sprint Tennessee RSA 3 LP GTE/Contel U.S. Cellular	191,600 51,000 165,100 804,100 765,000	19.2 % 5.1 % 16.6 % 80.7 % 76.8 %
Middlesboro-Harlan, KY	119,900	First Kentucky Metro Mobile CTS Tennessee RSA 3 LP GTE/Contel Mountaineer Cell.	65,500 26,700 27,700 93,200 26,700	54.6 % 22.3 % 23.1 % 77.7 % 22.3 %
Grand Island-Kearney, NE	143,800	General Cellular Nebraska Cellular	131,700 143,800	91.6 % 100 %
Hastings, NE	72,800	General Cellular Nebraska Cellular	72,800 72,800	100 % 100 %
Lincoln, NE	321,300	General Cellular Nebraska Cellular Centennial Cell. Lincoln Cell.	95,800 95,800 225,600 225,600	29.8 % 29.8 % 70.2 % 70.2 %
McCook, NE	35,400	General Cellular Nebraska Cellular Miscellco Liberty Cellular	28,300 28,300 7,100 7,100	79.9 % 79.9 % 20.1 % 20.1 %
Norfolk, NE	111,900	National Cellular Nebraska Cellular General Cellular Pinellas	83,900 111,900 21,400 6,600	74.9 % 100 % 19.1 % 5.9 %
North Platte, NE	81,200	General Cellular Nebraska Cellular Sagir	79,000 81,200 2,200	97.3 % 100 % 2.7 %
Omaha, NE	939,000	National Cellular Nebraska Cellular General Cellular U.S. Cellular RSA 7 LP Pinellas U S WEST NewVector Lincoln CommNet Cellular	17,500 196,200 99,100 64,800 14,900 124,300 633,500 683,400 44,700	1.9 % 20.9 % 10.6 % 6.9 % 1.6 % 13.2 % 67.5 % 72.8 % 4.8 %
Atlantic City, NJ	333,700	BAM Ellis Thompson	333,700 333,700	100 % 100 %
Dover, DE	270,200	WCC Cellular BAM First Cellular LP	28,200 270,200 242,000	10.4 % 100 % 89.6 %
Harrisburg, PA	680,200	Vanguard Cellular Sprint Cellular	680,200 633,300	100 % 93.2 %
Lancaster, PA	453,400	Vanguard Cellular Sprint Cellular	453,400 453,400	100 % 100 %

Phila., PA- Wilmington, DE	6,040,200	Comcast BAM U.S. Cellular	5,901,300 6,040,200 138,900	97.7 % 100 % 2.3 %
Pottsville- Frackville, PA	151,000	Sunshine Cellular U.S. Cellular	151,000 151,000	100 % 100 %
Reading, PA	351,700	Vanguard Cellular BAM	351,700 351,700	100 % 100 %
State College, PA	128,100	Vanguard Cellular Independent Cellular Network	128,100 128,100	100 % 100 %
Sunbury- Shamokin, PA	188,900	Sunshine Cellular U.S. Cellular BAM	188,900 18,100 170,800	100 % 9.6 % 90.4 %
Williamsport, PA	165,200	AmeriCell Independent Cellular Network Vanguard Cellular U.S. Cellular	36,800 42,900 122,300 122,300	22.3 % 25.9 % 74.0 % 74.0 %
York-Hanover, PA	442,300	Vanguard Cellular Sprint	442,300 442,300	100 % 100 %
Chico- Oroville, CA	228,800	General Cellular AirTouch AT&T Wireless Services (McCaw)	202,100 228,800 26,700	88.3 % 100 % 11.7 %
Eureka, CA	157,200	U.S. Cellular Cal-One Cellular	157,200 157,200	100 % 100 %
Fresno, CA	872,200	GTE/Contel Cellular 2000 AT&T Wireless Services (McCaw)	872,200 104,800 767,500	100 % 12.0 % 88.0 %
Mercen, CA	218,800	Sierra Cellular Cellular 2000 GTE/Contel AT&T Wireless Services (McCaw)	16,700 202,100 202,100 16,700	7.6 % 92.4 % 92.4 % 7.6 %
Modesto, CA	484,200	AirTouch Sierra Cellular AT&T Wireless Services (McCaw)	428,900 55,300 484,200	88.6 % 11.4 % 100 %
Redding, CA	285,500	AirTouch U.S. Cellular Cal-One Cellular AT&T Wireless Services (McCaw)	226,200 59,300 59,300 226,200	79.2 % 20.8 % 20.8 % 79.2 %
Reno, NV	482,400	Sierra Cellular AirTouch C.C. Cellular General Cellular ALLTEL Cellular AT&T Wireless Services (McCaw) GTE/Contel	1,300 382,400 40,300 105,400 48,400 377,200 10,200	0.3 % 79.3 % 8.4 % 21.8 % 10.0 % 79.2 % 2.1 %
Sacramento, CA	1,886,100	U.S. Cellular AT&T Wireless Services (McCaw) AirTouch Modoc Cellular Pacific Sierra Cellular Atlantic Cell. Data Cell	50,900 1,591,200 1,648,000 50,900 35,900 151,000 151,000 93,000	2.7 % 84.4 % 87.4 % 2.7 % 1.9 % 8.0 % 8.0 % 4.9 %

Salinas- Monterey, CA	384,200	GTE/Contel AT&T Wireless Services (McCaw)	384,200 384,200	100 % 100 %
San Fran.- Oak.-S.J., CA	6,830,200	AirTouch GTE/Contel U.S. Cellular Cellular 2000 AT&T Wireless Services (McCaw) ^a Cellular One-Santa Cruz	5,469,400 6,830,200 144,500 40,300 2941,700 234,200	80.1 % 100 % 2.1 % 0.6 % 213.8 % 3.4 %
Stockton, CA	568,400	Sierra Cellular AirTouch AT&T Wireless Services (McCaw)	38,800 529,600 568,400	6.8 % 93.2 % 100 %
Visalia- Porterville, CA	466,700	GTE/Contel AT&T Wireless Services (McCaw)	466,700 466,700	100 % 100 %
Yuba City- Marysville, CA	138,800	AirTouch AT&T Wireless Services (McCaw)	138,800 138,800	100 % 100 %

^a Pops do not include share of joint venture, which would raise figure to approximately 6.3 million attributable pops in San Francisco BTA, an overlap of roughly 92.6 percent.

Additional Major Trading Area Service Profiles

MTA Name	Total Pops	Celcos in Market	Celco Pops	% Overlap
Knoxville MTA	1,779,000	GTE/Contel	1,345,100	75.6 %
		Sprint	714,300	40.2 %
		BAMA	112,300	6.3 %
		Bachtel	248,800	13.9 %
		SWB Mobile	32,100	1.8 %
		Tennessee RSA 3 LP	129,800	7.3 %
		U.S. Cellular	765,000	43 %
		First Kentucky	65,500	3.7 %
		Metro Mobile CTS	26,700	1.5 %
		Mountaineer Cell.	26,700	1.5 %
Omaha MTA	1,705,300	General Cellular	528,100	30.9 %
		Nebraska Cellular	730,000	42.8 %
		Centennial Cellular	225,600	13.2 %
		Lincoln	909,000	53.3 %
		Miscellco	7,100	0.4 %
		Liberty Cellular	7,100	0.4 %
		National Cellular	17,500	1.0 %
		Pinellas	130,900	7.7 %
		Sagir	2,200	0.1 %
		U S WEST NewVector	633,500	37.1 %
		RSA 7 L.P.	14,900	0.9 %
		U.S. Cellular	64,800	3.8 %
		CommNet Cellular	44,700	2.6 %
Philadelphia MTA	9,204,600	BAM	7,166,600	77.9 %
		Ellis Thompson	333,700	3.6 %
		WCC Cellular	28,200	0.3 %
		First Cellular L.P.	242,000	2.6 %
		Vanguard Cellular	2,178,000	23.7 %
		Sprint	1,529,000	16.6 %
		Comcast	5,901,300	64.1 %
		Sunshine Cellular	339,900	3.7 %
		U.S. Cellular	430,300	4.7 %
		Independent Cellular Network	171,000	1.9 %
		AmeriCell	36,800	0.4 %
San Francisco MTA	13,003,400	General Cellular	307,500	2.4 %
		AirTouch	9,052,100	69.6 %
		AT&T Wireless Services (McCaw)	5,989,500	46.1 %
		U.S. Cellular	411,900	3.2 %
		Cal-One Cellular	216,500	1.7 %
		GTE/Contel	8,765,600	67.4 %
		Cellular 2000	347,200	2.7 %
		Sierra Cellular	263,000	2.0 %
		C.C. Cellular	40,300	0.3 %
		ALLTEL	48,400	0.4 %
		Modoc	50,900	0.4 %
		Cellular Pacific	35,900	0.3 %
		Atlantic Cellular	151,000	1.2 %
		Data Cellular	93,000	0.7 %
		Cellular One-Santa Cruz	234,200	1.8 %

ⒶAffiliated companies. Aggregation of pops will have no impact on eligibility, regardless of overlap threshold.

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September 30, 1994

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. Room 222
Washington, D.C. 20554

RE: Ex Parte Filing
GEN Docket No. 90-314 (Personal Communications Services)

Dear Mr. Caton:

On Friday, September 30, 1994, Mr. Randall S. Coleman, Vice President of Regulatory Policy and Law, Cellular Telecommunications Industry Association (CTIA) sent the attached letters to the following Commission personnel:

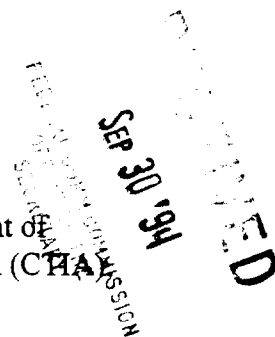
Chairman Reed Hundt	Ms. Karen Brinkmann
Commissioner Andrew C. Barrett	Mr. James Coltharp
	Ms. Lisa B. Smith
Commissioner Rachelle B. Chong	Ms. Jill Luckett
Commissioner Susan Ness	Mr. David Siddall
Commissioner James H. Quello	Ms. Lauren Belvin
	Mr. Rudolfo Baca
Mr. Blair Levin	Mr. William Kennard
Dr. Robert Pepper	Mr. Donald Gips
Mr. Gregory Rosston	Mr. Andrew Sinwell
Mr. Anthony Williams	Mr. Michael Wack
Mr. Stanley Wiggins	

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the attachments are being filed with your office.

If there are any questions in this regard, please contact the undersigned.

Sincerely,


Robert F. Roche





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Randall S. Coleman
Vice President for
Regulatory Policy and Law

September 30, 1994

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
1919 M Street, NW - Room 814
Washington, D.C. 20554

Re: Broadband PCS Auction Rules,
PP Docket No. 93-253

Dear Chairman Hundt:

On behalf of its Small Operators Caucus, CTIA urges you to reconsider the current rules governing competitive bidding for licenses in broadband Personal Communications Services (PCS). In particular, these rules restrict unnecessarily the eligibility of small telecommunications companies to participate in the spectrum auctions specifically designated for small businesses and other entrepreneurs. Absent immediate changes, these rules will force small cellular companies and other experienced entrepreneurial companies to look elsewhere for investment opportunities. This would deny the American public the full benefits of competition by needlessly excluding experienced entrepreneurs from PCS. These rules also discourage participation by and investment in prospective PCS licensees owned or controlled by women and members of minority groups, two groups which traditionally have been under represented among FCC licensees.

We cannot believe this is what the Congress intended when it authorized the FCC to auction radio spectrum. Congress specifically mandated that rural telephone companies, small businesses and businesses owned by women and minorities (sometimes referred to as "designated entities") should be given special incentives to participate in the competitive bidding process. The FCC has implemented this mandate for broadband PCS by earmarking spectrum blocks specifically for entrepreneurs that have revenues and assets below certain thresholds. The financial and structural requirements established by the FCC are, laudably, intended to preclude shams and fronts from gaming the auction process. Unfortunately, and I believe inadvertently, the rules go too far in prohibiting small telecommunications businesses from competing for broadband PCS licensees.

In many instances, small cellular companies were formed with just a few key managers who possessed the experience and entrepreneurial spirit to acquire and build-out cellular systems in sparsely populated Rural Service Areas (RSAs). The managing entrepreneurs raised capital from private equity investors and other financial institutions and often chose to create limited partnership structures, under which the private and institutional investors received limited partnership units, while the managers received general partnership overrides. This structure provided the managers, as small business people, the opportunity to control and operate cellular RSAs, but at the price of retaining a relatively small amount of the company's total equity. Ironically this same structure disqualifies such enterprises from participating meaningfully in the spectrum auctions and from bringing new wireless services to the small and rural communities they serve.

The FCC's broadband PCS auction rules ignore the business realities these entrepreneurs have faced, in particular, the fact that successful small companies have had to sell equity to others to raise capital to build networks and expand into new markets. Although many such companies may meet the criteria for a "small business" under the Commission's broadband PCS rules, except that the entrepreneurs that manage and control the business retain less than the required 25% of the company's equity as a result of having to sell equity to get into the business in the first place. This aspect of the "control group" requirement for the entrepreneur's blocks is a nonstarter. Precluding successful and experienced small cellular companies from PCS is a loss to this Nation. Why preclude small service providers with a proven track record from employing their experience and expertise to expand their service areas and adding new applications?

Because small cellular companies have focused on smaller markets and rural areas, some have been approached by foreign telecommunications administrations with similar market challenges and opportunities. Some of these companies are, today, in negotiations with those countries and they will take their experience and resources abroad if the US Government leaves them no alternative. Would it not be better to harness the experience and resources of US companies to promote economic growth and technological innovation at home, rather than abroad? This outcome is still within reach, but first, the FCC must develop a more realistic approach to creating opportunities for small businesses to use their expertise to fulfill the Clinton-Gore Administration's ambitious goal of deploying the National Information Infrastructure.

Likewise, the 25% equity requirement for entrepreneurs inhibits the ability of firms owned by women and minorities to qualify as entrepreneurs and to raise capital. Like small cellular companies, successful female and minority entrepreneurs may have been unable to retain 25% equity in their companies. Given the enormous amounts of capital that will be required to win and build-out a broadband PCS license, such companies which currently retain the required control group equity may be unable to hold that amount of equity if they are to successfully partner with a larger firm or receive sufficient funds from a lending venture capital

firm or some other financial institution. Moreover, although women and minorities are free to create new companies which meet the letter of the FCC's control group requirements, these

groups will face the same obstacles to capital formation which underlie the Congressional mandate which lead to the FCC's creation of the entrepreneur's blocks. Why not give these groups greater flexibility to raise capital through the sale of equity?

CTIA believes that small businesses and businesses owned by women and minorities, as well the FCC's goal of encouraging their participation in PCS, will benefit from the following changes to the rules for designated entities:

- Amend the rules governing attribution of gross revenues, total assets and personal net worth to establish an applicant's financial eligibility for the entrepreneur's blocks. Specifically, the Commission should permit non-attributable investors in all applicants for the entrepreneur's blocks to own up to 20-25% of the applicant's voting stock; and
- Lower the amount of equity required of the entrepreneur control group from 25% to 10%, provided that (as the rules would continue to require) the applicant's control group retains voting control (or at least 50.1% of the voting stock, if a corporation).

The first change would significantly enhance the ability of small companies to raise capital. As the Commission has recognized, investors will have little incentive to invest in an entrepreneur if they have no ability to protect their investment.¹ Nor is there any obvious reason to assume that a 20-25% interest in an entrepreneur block applicant will convey a significantly greater risk of control than a 15% interest would.² Likewise the requirement that the control group retain voting control (or at least 50.1% of the voting stock in the case of corporate applicants) remains as a barrier to the abuse of the auction process.

The second proposed change to the broadband auction rules would also help entrepreneur block applicants, whether they are small businesses or businesses owned or controlled by women or minorities. Lowering the control group equity requirement would permit participation by prospective applicants that fall within the revenue and total asset

¹ See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, *Order on Reconsideration* in PP Docket No. 93-253, Federal Communications Commission 94-217, released August 15, 1994, at par. 10.

² For instance, although the Communications Act forbids control of radio licenses by foreign firms, a company may hold a license and still be directly or indirectly controlled by another corporation which has up to 25% of its voting stock owned by aliens. See 47 U.S.C. Section 310(b)(4). See other examples in CTIA's Petition for Reconsideration in PP Docket No. 93-253, Implementation of Section 309(j) of the Communications Act - Competitive Bidding, filed August 22, 1994, at 4-8

thresholds but have preexisting capital structures which are at odds with the current control group rules. This amendment of the rules would also provide greater flexibility for businesses owned by women or minorities to attract new investors and offer equity to prospective partners. Here again, because such applicants would still have to demonstrate control at the lower equity threshold, this change would not create a loop hole for abuse of the auction process.³ Finally, although any lowering of the control group equity requirement will benefit prospective entrepreneur block applicants, a sizable reduction to 10% would provide significant incentives to prospective applicants and their potential investors or partners.

The importance of enhancing opportunities for designated entities cannot be overstated. Given the outcome of the first narrowband PCS auction (where designated entities were unable to win a single license) and the even greater financial resources that will be required to succeed in the broadband PCS auctions, the two rule changes proposed in this letter are modest, yet important steps toward achieving the intent of Congress and the Commission's own stated goals. Without the additional opportunities embodied in these proposals, the experience and enterprise small cellular operators can bring to broadband PCS in small communities and rural areas will be lost and those groups traditionally shut out of the telecommunications industry will remain so.

You can help to avoid this result.

Sincerely,



Randall S. Coleman

³ While the Commission might entertain safeguards to restrict the application of the lower control group equity requirement, the fact that applicants would still have to comply with the revenue and asset tests may render such safeguards unnecessary. *See id.* at 8-10.

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	Ms. Lisa B. Smith
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SEP 30 1994
COMMUNICATIONS COMMISSION



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Randall S. Coleman
Vice President for
Regulatory Policy and Law

September 30, 1994

The Honorable Reed E. Hundt
Chairman
Federal Communications Commission
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We cannot believe this is what the Congress intended when it authorized the FCC to auction radio spectrum. Congress specifically mandated that rural telephone companies, small businesses and businesses owned by women and minorities (sometimes referred to as "designated entities") should be given special incentives to participate in the competitive bidding process. The FCC has implemented this mandate for broadband PCS by earmarking spectrum blocks specifically for entrepreneurs that have revenues and assets below certain thresholds. The financial and structural requirements established by the FCC are, laudably, intended to preclude shams and fronts from gaming the auction process. Unfortunately, and I believe inadvertently, the rules go too far in prohibiting small telecommunications businesses from competing for broadband PCS licensees.

In many instances, small cellular companies were formed with just a few key managers who possessed the experience and entrepreneurial spirit to acquire and build-out cellular systems in sparsely populated Rural Service Areas (RSAs). The managing entrepreneurs raised capital from private equity investors and other financial institutions and often chose to create limited partnership structures, under which the private and institutional investors received limited partnership units, while the managers received general partnership overrides. This structure provided the managers, as small business people, the opportunity to control and operate cellular RSAs, but at the price of retaining a relatively small amount of the company's total equity. Ironically this same structure disqualifies such enterprises from participating meaningfully in the spectrum auctions and from bringing new wireless services to the small and rural communities they serve.

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CTIA believes that small businesses and businesses owned by women and minorities, as well the FCC's goal of encouraging their participation in PCS, will benefit from the following changes to the rules for designated entities:

- Amend the rules governing attribution of gross revenues, total assets and personal net worth to establish an applicant's financial eligibility for the entrepreneur's blocks. Specifically, the Commission should permit non-attributable investors in all applicants for the entrepreneur's blocks to own up to 20-25% of the applicant's voting stock; and
- Lower the amount of equity required of the entrepreneur control group from 25% to 10%, provided that (as the rules would continue to require) the applicant's control group retains voting control (or at least 50.1% of the voting stock, if a corporation).

The first change would significantly enhance the ability of small companies to raise capital. As the Commission has recognized, investors will have little incentive to invest in an entrepreneur if they have no ability to protect their investment.¹ Nor is there any obvious reason to assume that a 20-25% interest in an entrepreneur block applicant will convey a significantly greater risk of control than a 15% interest would.² Likewise the requirement that the control group retain voting control (or at least 50.1% of the voting stock in the case of corporate applicants) remains as a barrier to the abuse of the auction process.

The second proposed change to the broadband auction rules would also help entrepreneur block applicants, whether they are small businesses or businesses owned or controlled by women or minorities. Lowering the control group equity requirement would permit participation by prospective applicants that fall within the revenue and total asset

¹ See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, *Order on Reconsideration* in PP Docket No. 93-253, Federal Communications Commission 94-217, released August 15, 1994, at par. 10.

² For instance, although the Communications Act forbids control of radio licenses by foreign firms, a company may hold a license and still be directly or indirectly controlled by another corporation which has up to 25% of its voting stock owned by aliens. See 47 U.S.C. Section 310(b)(4). See other examples in CTIA's Petition for Reconsideration in PP Docket No. 93-253, Implementation of Section 309(j) of the Communications Act - Competitive Bidding, filed August 22, 1994, at 4-8

thresholds but have preexisting capital structures which are at odds with the current control group rules. This amendment of the rules would also provide greater flexibility for businesses owned by women or minorities to attract new investors and offer equity to prospective partners. Here again, because such applicants would still have to demonstrate control at the lower equity threshold, this change would not create a loop hole for abuse of the auction process.³ Finally, although any lowering of the control group equity requirement will benefit prospective entrepreneur block applicants, a sizable reduction to 10% would provide significant incentives to prospective applicants and their potential investors or partners.

The importance of enhancing opportunities for designated entities cannot be overstated. Given the outcome of the first narrowband PCS auction (where designated entities were unable to win a single license) and the even greater financial resources that will be required to succeed in the broadband PCS auctions, the two rule changes proposed in this letter are modest, yet important steps toward achieving the intent of Congress and the Commission's own stated goals. Without the additional opportunities embodied in these proposals, the experience and enterprise small cellular operators can bring to broadband PCS in small communities and rural areas will be lost and those groups traditionally shut out of the telecommunications industry will remain so.

You can help to avoid this result.

Sincerely,



Randall S. Coleman

³ While the Commission might entertain safeguards to restrict the application of the lower control group equity requirement, the fact that applicants would still have to comply with the revenue and asset tests may render such safeguards unnecessary. *See id.* at 8-10.